

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DEVONTE B. HARRIS,

Plaintiff,

v.

ROXANNE COLEMAN,

Defendant.

Case No.: 1:20-cv-00759-ADA-SKO (PC)

**ORDER SETTING SETTLEMENT
CONFERENCE AND SETTLEMENT
CONFERENCE PROCEDURES**

**Telephonic Pre-Settlement Conference:
11/2/2022 at 11:00 a.m.**

**Settlement Conference: 11/8/2022 10:30 a.m.
via Zoom Videoconference**

Plaintiff Devonte B. Harris is proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983 on a single claim of retaliation in violation of the First Amendment against Defendant R. Coleman.

On August 30, 2022, this Court directed the parties to meet and confer to select either September 29, 2022, or November 8, 2022, for a settlement conference before the undersigned. (Doc. 40.) On September 8, 2022, defense counsel contacted the courtroom deputy and advised he has been unable to speak with Plaintiff because the prison has been unable to arrange for a telephone conversation between the two parties. Defense counsel indicated his availability for a November 8, 2022, settlement conference.

//

//

1 Although the parties have been unable to meet and confer by telephone as directed, the
2 Court finds it appropriate to set the matter for a settlement conference given this Court's caseload,
3 the undersigned's availability, and the procedural posture of this action.

4 Accordingly, it is hereby **ORDERED** that:

- 5 1. The Court SETS a telephonic pre-settlement conference for **November 2, 2022, at**
6 **11:00 a.m.** before the undersigned to discuss whether the settlement conference will
7 be productive. Defense counsel shall arrange for Plaintiff's participation. The parties
8 shall dial 1-888-557-8511 and enter access code 6208204# for the telephonic
9 conference.
- 10 2. A settlement conference is scheduled to occur on **November 8, 2022, at 10:30 a.m.**,
11 before the undersigned, via Zoom videoconference. Defense counsel shall arrange for
12 Plaintiff's participation. Prior to the conference, defense counsel shall contact the
13 undersigned's courtroom deputy at wkusamura@caed.uscourts.gov for the Zoom
14 videoconference connection information. The Court will issue a writ of *habeas corpus*
15 *ad testificandum* to allow for Plaintiff's participation, as appropriate.
- 16 3. Each party or a representative with full authority to negotiate and enter into a binding
17 settlement agreement shall participate in the conference. The failure of any counsel,
18 party, or authorized person subject to this order to participate in the conference may
19 result in the imposition of sanctions.
- 20 4. Consideration of settlement is a serious matter that requires thorough preparation prior
21 to the settlement conference. Participants in the conference must be prepared to
22 discuss the claims, defenses, and damages.
- 23 5. The parties shall engage in informal settlement negotiations as follows:
24 No later than **September 23, 2022**, Plaintiff shall submit to Defendants, by mail, a
25 written itemization of damages and a meaningful settlement demand, including a brief
26 explanation of why such settlement is appropriate, which shall not exceed 5 pages.
27 No later than **October 3, 2022**, Defendants shall respond, by mail or telephone, with
28 an acceptance of Plaintiff's offer or a meaningful counteroffer, including a brief

1 explanation of why such settlement is appropriate. If settlement is achieved, the parties
2 shall file a Notice of Settlement as required by Local Rule 160.

- 3 6. If settlement is not achieved informally, the parties shall submit confidential
4 settlement conference statements no later than **October 14, 2022**. Defendants shall
5 email their statement to skoorders@caed.uscourts.gov. Plaintiff shall mail his
6 statement, clearly captioned “Confidential Settlement Conference Statement,” to
7 United States District Court, Attn: Magistrate Judge Sheila K. Oberto, 2500 Tulare
8 Street, Room 1501, Fresno, CA 93721.

9 Once the parties have submitted their statements, they shall file a “Notice of
10 Submission of Confidential Settlement Conference Statement” with the court. The
11 confidential settlement conference statements themselves **should not be filed** with the
12 court **nor served** on the opposing party.

- 13 7. The confidential settlement conference statements should be no longer than 5 pages in
14 length and include:

- 15 a. A brief summary of the facts of the case;
16 b. A brief summary of the claims and defenses of the case, i.e., the statutory,
17 constitutional, or other grounds upon which the claims are founded;
18 c. A forthright discussion of the strengths and weaknesses of the case and an
19 evaluation of the likelihood of prevailing on the claims or defenses, from the
20 party’s perspective, and a description of the major issues in dispute;
21 d. An estimate of the party’s expected costs and time to be expended for further
22 discovery, pretrial matters, and trial;
23 e. A summary of past settlement discussions, including the informal settlement
24 negotiations required above; a statement of the party’s current position on
25 settlement, including the amount the party would offer and accept to settle (in
26 specific dollar amounts); and a statement of the party’s expectations for
27 settlement discussions;
28

- 1 f. An estimate of any restitution allocated to Plaintiff, or other financial
2 obligation assigned to Plaintiff, that would affect the parties' settlement
3 discussions;
- 4 g. A list of the individuals who will be attending the conference on the party's
5 behalf, including names and, if appropriate, titles; and,
- 6 h. If a party intends to discuss the settlement of any other actions or claims not
7 raised in this suit, a brief description of each action or claim, including case
8 number(s), as applicable.

9 The Clerk of the Court is directed to additionally serve a courtesy copy of this Order via
10 email on the Litigation Coordinator at the facility housing Plaintiff to ensure Plaintiff receives a
11 copy of this Order as soon as possible.

12 IT IS SO ORDERED.

13
14 Dated: September 13, 2022

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE